

CHAPTER 6 USE OF RECORDS - PROCEDURE

This chapter deals with the actual recording of instruments and other services required of the recorder in the transaction of the business of the office. The handling and accounting for cash receipts is separately discussed in Chapter 7.

No attempt is made in this chapter to outline and enumerate in detail each particular duty pertaining to the processing and recording of instruments, since all of such duties are statutory and for the most part are fully covered in Chapter 8. There are, however, certain basic duties required of each recorder upon the receipt of an instrument for recording, which are discussed in the following paragraphs and which we feel should be uniformly followed by all recorders.

Receipt of Instrument: Upon the receipt of an instrument for recording it should be examined to see that it meets all statutory requirements, and that it is accompanied with a remittance for the proper recording fee, if a fee is required, and recorded in the order received. [IC 36-2-11-6 and 36-2-11-8]

Entry Book: Immediately upon receipt of the instrument for recording it must be entered in the "Entry Book" showing the day and hour received and the other information required by statute to be recorded therein. The instrument shall be deemed as recorded at the time so noted. [IC 32-21-2-10; 36-2-11-9]

If a satisfaction, cancellation, or assignment of any kind is made on the margin of a record in the recorder's office, he shall immediately enter it on the entry book. The entry must show the date of entry, the name of the person who executed the instrument satisfied, canceled, or assigned, and the name, number, and page of the record where the instrument is recorded. [IC 36-2-11-18]

Instrument Number: To identify each instrument an "instrument number" should be assigned to such instrument, immediately upon its receipt and entry in the Entry Book. This number should be entered on the instrument, in the proper column of the Entry Book, and also in the proper column of the Fee and Cash Book. The numbers must be consecutively assigned to insure that all instruments are properly accounted for and recorded and may be affixed manually or by the use of a consecutive numbering machine. The use of a numbering machine which holds and repeats the same number three times, for entry thereof on the instrument, the Entry Book and the Fee and Cash Book, seems to better insure proper numerical sequence and proper entry of the instrument numbers.

Instrument numbers should also be assigned to each marginal satisfaction, cancellation or assignment entered in the Entry Book.

Fee and Cash Book: Immediately after entry of the instrument in the Entry Book the fee received therefor must be entered in the Fee and Cash Book. If no fee is payable, the instrument should nevertheless be entered in the Fee and Cash Book with the symbol "N/C" to be entered in the cash column to indicate that no fee was chargeable. For further instructions in keeping the Fee and Cash Book, see Chapter 7.

Recording and Indexing Instrument: After the instrument has been assigned a number and entered in the Entry Book and the Fee and Cash Book, it is then in a position to be recorded in the appropriate record, properly indexed, and the recording entries completed.

Extreme care should be taken in handling all of the foregoing entries, since failure to properly enter, record and index an instrument may have an adverse effect upon the title to property, and possibly may make the recorder liable therefor. If instruments are handwritten or typewritten, they should be carefully proofread before the instrument is returned.

Notation on Instrument: Space is usually printed on deed and mortgage forms for showing the date and time the instrument is recorded, the record and page where recorded, and signature of the recorder. Where not printed on the instrument, the recorder should have a rubber stamp containing substantially the same information. This notation should be completed before return of the instrument to the person submitting it for recording.

RECORDING OF INSTRUMENTS

All instruments must be recorded at length, except where otherwise expressly provided by law. Instances in which an instrument need not be recorded at length include:

- (a) Instruments filed under the Uniform Commercial Code - Secured Transactions;
- (b) Federal Liens filed under the provisions of IC 36-2-11-25;
- (c) Old Age Assistance Liens filed under IC 12-14-13 and 12-14-16.

In all of the above instances, where instruments are not recorded at length, the statutes require that such instruments be entered or abstracted in the appropriate record and "filed" in the recorder's office as a public record, and are not to be returned upon entry in the records to the mortgagee or person presenting the same for recording.

Methods of Recording: There are several authorized methods or processes by which instruments may be recorded, all of which are covered in detail in Chapter 8. These include: (a) the regular handwritten and typewritten methods; (b) photographic or photostatic process; and (c) miniature photographic process or microfilm process. Before any recording process under (b) or (c) is used it must be adopted and approved by the board of county commissioners.

Use of Jet-Black Ink: County recorders are required to use permanent jet-black, non-fading ink in the preparation of any and all records, which by law the recorder is charged with the responsibility of preparing for any purpose, when such record is written in longhand. A person who violates this subsection commits a Class C infraction. [IC 36-2-17-2]

Records: The statutory and prescribed records in which instruments shall be recorded are listed in Chapter 5, and the statutes pertaining to most types of instruments are covered in Chapter 8. The recorder should carefully review these chapters and the records of the office to insure that each type of instrument is uniformly recorded in the proper record. If a question should arise as to the proper record to be used, refer to the statutes and, if necessary, consult the county attorney.

Errors in Recording: Where an error is made in copying an instrument and it is not detected in proofreading and corrected before the instrument is returned, it is advisable not to make any changes thereafter in the original record. Instead, the instrument upon being again submitted should be re-recorded in its correct form.

If the error is the fault of the recorder's office, no charge should be made for re-recording the instrument. If, however, the instrument is copied in the exact form submitted and later an error is discovered in the original instrument and a corrected instrument filed for record, then the usual recording fee must be charged.

COPIES OF RECORDS OR INSTRUMENTS

The furnishing of copies of any record or instrument is governed by IC 36-2-7-10. Specific details of this law will be found in Chapter 4.

In keeping with the provisions of this law the State Board of Accounts has prescribed County Form No. 138, Record of Instruments Copied or Proofed. When a request is made for a copy, or copies, of any record or instrument, Form No. 138 must be filled out and signed by the requester, identifying the particular record or instrument and showing the number of copies requested. If the request is by mail, it should be so indicated in the space provided for "Signature and Requester" and the letter of request placed on file in support thereof. Each request will bear an "Identification Number" to be prenumbered by the printer, and this number shall appear on each copy furnished.

Upon receipt of the copy or copies the requester shall pay the fees fixed in IC 36-2-7-10, unless the statutes require that such copy or copies be furnished without charge. The fees charged and collected shall be entered in the space provided on Form No. 138 and immediately entered in the Fee and Cash Book, to be accounted for as are other fees. The fees to be charged are set out in Chapter 4.

Copies furnished under this Act should not be entered in the Entry Book, since the latter record is designed to be used only for the entry of instruments received for recording.

ACKNOWLEDGMENTS

For acknowledging any conveyance, mortgage or instrument in writing to be recorded, pursuant to authority granted in IC 32-21-2-3, a fee of five dollars (\$5.00) shall be charged and collected. The fees for such services must be entered in the Fee and Cash Book, discussed in Chapter 7, but no entry thereof should be made in the Entry Book or other record of the office.